

JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

BRIAN J. STRETCH (CABN 163973)
Chief, Criminal Division

WENDY THOMAS (NYBN 4315420)
Special Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, CA 94102
Telephone: (415) 436-6809
Facsimile: (415) 436-7234

NOAH ABRAMS
Law Clerk

Attorneys for the United States

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	Case No: CR 07-0295 MAG
)	
Plaintiff,)	UNITED STATES' RESPONSE TO
)	DEFENSE'S MOTION IN LIMINE TO
v.)	EXCLUDE OTHER ACTS EVIDENCE
)	UNDER RULES 404(b) AND 403
NICOLE LEA MAYS,)	
)	Pretrial Conf: April 1, 2008
Defendant.)	Time: 2:00 p.m.
)	Court: Hon. Elizabeth D. Laporte

At this time, the United States has no intention of introducing "other acts" evidence in its case in chief under Federal Rule of Evidence 404(b) at trial. This includes evidence of prior drug use or questioning on prior drug use. However, the government specifically reserves the right to use such evidence as impeachment if the defendant chooses to testify pursuant to FRE 607.

As stated in the United States' Trial Brief, the government intends to offer Sargent Hart's testimony that the defendant had two outstanding warrants at the time of her arrest. The admissibility of this evidence is addressed in the United States' Opposition to the Defense's

1 Motion in Limine to Exclude Warrants. In summary, the two outstanding warrants do not
2 constitute “other acts” under 404(b) and 403.

3 DATED: March 25, 2008

4 Respectfully submitted,

5
6 JOSEPH P. RUSSONIELLO
7 United States Attorney

8
9 /s/
WENDY M. THOMAS
Special Assistant United States Attorney